

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BARTH DENNIS CAPELA,

No. C 07-04734 SBA (PR)

Petitioner,

**ORDER DIRECTING RESPONDENT TO  
SHOW CAUSE WHY THE PETITION  
SHOULD NOT BE GRANTED**

v.

BOB HOREL, Warden,

Respondent.

Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has been granted leave to proceed in forma pauperis. It does not appear from the face of the petition that it is without merit. Good cause appearing, the Court hereby issues the following orders:

1. The Clerk of the Court shall serve a copy of this Order and the petition and all attachments thereto upon Respondent and Respondent's attorney, the Attorney General of the State of California. The Clerk shall also serve a copy of this Order on Petitioner at his current address.
2. Respondent shall file with this Court and serve upon Petitioner, within **one-hundred and twenty (120) days** of the issuance of this Order, an Answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the Answer a copy of all portions of the relevant state records that have been transcribed previously and that are relevant to a determination of the issues presented by the petition.

1           3.       If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with  
2 the Court and serving it on Respondent within **sixty (60) days** of his receipt of the Answer. Should  
3 Petitioner fail to do so, the petition will be deemed submitted and ready for decision **sixty (60) days**  
4 after the date Petitioner is served with Respondent's Answer.


5           4.       Respondent may file a motion to dismiss on procedural grounds in lieu of an Answer,  
6 as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases.  
7 If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an  
8 opposition or statement of non-opposition to the motion within **sixty (60) days** of receipt of the  
9 motion, and Respondent shall file with the Court and serve on Petitioner a reply within **fifteen (15)**  
10 **days** of receipt of any opposition.

11           5.       It is Petitioner's responsibility to prosecute this case. Petitioner must keep the Court  
12 and Respondent informed of any change of address and must comply with the Court's orders in a  
13 timely fashion. Petitioner must also serve on Respondent's counsel all communications with the  
14 Court by mailing a true copy of the document to Respondent's counsel.

15           6.       Extensions of time are not favored, though reasonable extensions will be granted.  
16 Any motion for an extension of time must be filed no later than **ten (10) days** prior to the deadline  
17 sought to be extended.

18           IT IS SO ORDERED.

19           DATED: 5/9/08

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA  
4  
5

6 BARTH DENNIS CAPELA,

Case Number: CV07-04734 SBA

7 Plaintiff,

**CERTIFICATE OF SERVICE**

8 v.

9 BOB HOREL et al,

10 Defendant.  
11 \_\_\_\_\_/

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
13 Court, Northern District of California.

14 That on May 12, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said  
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
16 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
17 located in the Clerk's office.

18 Barth Dennis Capela  
19 V-58262  
20 California State Prison - Solano  
21 P.O. Box 4000  
22 Vacaville, CA 95696

23 Dated: May 12, 2008

24 Richard W. Wieking, Clerk  
25 By: LISA R CLARK, Deputy Clerk  
26  
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